



6560-50-P

## **ENVIRONMENTAL PROTECTION AGENCY**

### **40 CFR Part 320**

**[EPA-HQ-SFUND-2015-0781; FRL-FRL 9959-85-OLEM]**

**RIN 2050-AG61**

### **Financial Responsibility Requirements under CERCLA § 108(b) for Classes of Facilities in the Hardrock Mining Industry; Extension of Comment Period**

**AGENCY:** Environmental Protection Agency (EPA).

**ACTION:** Proposed rule; extension of comment period.

**SUMMARY:** The Environmental Protection Agency (EPA) is extending the comment period for the proposed rule entitled “Financial Responsibility Requirements under CERCLA § 108(b) for Classes of Facilities in the Hardrock Mining Industry.” That proposed rule was published on January 11, 2017, and the public comment period was scheduled to end on March 13, 2017. However, a number of parties have requested additional time to review the proposed rule and supporting information, and to develop and submit comments. Therefore, in response, EPA is extending the comment period an additional 120 days, so that comments are now due on or before July 11, 2017.

**DATES:** Comments on the proposed rule must be received on or before July 11, 2017.

**ADDRESSES:** Submit your comments on the proposed rule, identified by Docket ID No. EPA–HQ–SFUND–2015–0781, at <http://www.regulations.gov>. Follow the online instructions for submitting comments. Once submitted, comments cannot be edited or removed from Regulations.gov. EPA may publish any comment received to its public docket. Do not submit electronically any information you consider to be Confidential Business Information (CBI) or

other information whose disclosure is restricted by statute. Multimedia submissions (audio, video, etc.) must be accompanied by a written comment. The written comment is considered the official comment and should include discussion of all points you wish to make. EPA will generally not consider comments or comment contents located outside of the primary submission (i.e. on the Web, cloud, or other file sharing system). For additional submission methods, the full EPA public comment policy, information about CBI or multimedia submissions, and general guidance on making effective comments, please visit <http://www2.epa.gov/dockets/commenting-epa-dockets>.

**FOR FURTHER INFORMATION CONTACT:** For questions on the January 11, 2017, proposed rule or on this document, contact Barbara Foster, Program Implementation and Information Division, Office of Resource Conservation and Recovery, Mail code 5303P, Environmental Protection Agency, 1200 Pennsylvania Ave., NW, Washington, DC 20460; telephone number: (703) 308-7057; email address: [foster.barbara@epa.gov](mailto:foster.barbara@epa.gov), or Michael Pease, Program Implementation and Information Division, Office of Resource Conservation and Recovery, Mail code 5303P, Environmental Protection Agency, 1200 Pennsylvania Ave., NW, Washington, DC 20460; telephone number: (703) 308-0008; email address: [pease.michael@epa.gov](mailto:pease.michael@epa.gov).

**SUPPLEMENTARY INFORMATION:**

On January 11, 2017, EPA published in the **Federal Register** proposed requirements under section 108(b) of the Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA) for demonstrating financial responsibility.<sup>1</sup> The proposed rule would create a new part in the CERCLA regulations to require financial responsibility under CERCLA

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<sup>1</sup> See Financial Responsibility Requirements under CERCLA § 108(b) for Classes of Facilities in the Hardrock Mining Industry (82 FR 3388, January 11, 2017).

section 108(b), define requirements for demonstration of financial responsibility, define requirements for maintenance of financial responsibility instruments, and establish criteria for owners and operators to be released from financial responsibility requirements. In addition, the proposed rule would establish specific financial responsibility requirements applicable to certain classes of mines and associated mineral processing facilities within the hardrock mining industry.

The comment period for the proposed rule was scheduled to end on March 13, 2017. Since publication, EPA has received more than 60 requests to extend that comment period to allow the public additional time to develop comments on the proposed rule. The requests were for extensions ranging from 60 days to 120 days, and came from members of Congress, mining companies, states, state groups, and trade associations. The requestors cited a number of reasons for needing an extended comment period including the size and complexity of the rule, and the amount of background information in the rulemaking docket.

In addition to requests to extend the comment period, EPA also received a request to not extend it. This request came from several environmental groups concerned that the rule move forward without delay.

EPA acknowledges that the proposed rule and supporting materials include a substantial amount of information, and that EPA's proposed section 108(b) requirements are novel. Those commenters who have requested an extension have provided information to EPA demonstrating that they need more time than the 60 days EPA originally allotted to evaluate EPA's proposal and supporting information and develop their comments. Thus, after considering these comments, EPA has decided to extend the comment period for 120 days. This document is the Agency's response to those persons who requested an extension of the comment period.

As a result of this action, comments on the proposed rule must be submitted by July 11, 2017.

**List of Subjects in 40 CFR Part 320**

Environmental protection, Financial responsibility, Hardrock mining, Hazardous substances.

Dated: February 23, 2017.

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[FR Doc. 2017-04007 Filed: 3/1/2017 8:45 am; Publication Date: 3/2/2017]